

# SUBPOENA

## BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To L. Wayne Gertmenian, President and CEO, Matrix Capital Associates, Inc.

You are hereby commanded to be and appear before the Committee on Energy and Commerce  
Subcommittee on Oversight and Investigations

of the House of Representatives of the United States at the place, date and time specified below.

- ☐ to testify touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

- ☒ to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2125 Rayburn House Office Building

Date: October 3, 2005

Time: 5:00 p.m.

To the U.S. Marshal or any staff member of the Committee on Energy and Commerce

\_\_\_\_\_ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States,  
at the city of Washington, this 20th day of September, 2005.

Joe Barton

Chairman or Authorized Member

Attest:

Keith Trenchard

Clerk

## PROOF OF SERVICE

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Subpoena for <u>L. Wayne Gertmenian, President and CEO, Matrix Capital Associates, Inc.</u>	
Address _____	
_____	
before the <u>Committee on Energy and Commerce</u>	
<u>Subcommittee on Oversight and Investigations</u>	
<i>U.S. House of Representatives</i> <i>109<sup>th</sup> Congress</i>	

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Served by (print name) _____	
Title _____	
Manner of service _____	
_____	
Date _____	
Signature of Server _____	
Address _____	
_____	

## **Attachment to Subpoena**

- 1 All records related to the business and operations of Matrix Capital Associates, Inc. (Matrix) related to the Jockeys' Guild (Guild), including, but not limited to: all records related to Matrix' corporate income tax returns from 2001 to the present; all IRS Form 1099's prepared by Matrix and reflecting payment or reimbursement by Matrix for services provided to the Guild, including the reimbursement of expenses where no other compensation was provided; records related to all expenses in calendar year 2001 regarding efforts to replace the incumbent Guild leadership; copies of all checks issued by Matrix for Guild-related work or services; all Guild-related consulting agreements; documents describing or listing all past and current Matrix clients since 2001; all Matrix-related promotional or marketing materials; all Guild-related written work products or other documents that substantiate work or services performed pursuant to all written or oral contracts between Matrix and the Guild; all audits conducted of Matrix's business and operations; and, all Matrix records relating to travel by Dr. Wayne Gertmenian or other individuals on behalf of the Guild.
2. All records related to attorneys that Matrix has hired to work for or represent the Guild (either as paid consultants or as unpaid volunteers) as well as any documents regarding what services they have provided, how they have been compensated, and how they have been reimbursed for Guild-related expenses.
- 3 All records related to all individuals who have been compensated by Matrix for their time and services to the Guild, including, but not limited to: records that describe exactly what services and how much time each individual has contributed to the Guild; and all records related to any compensation of all such individuals by Matrix or the Guild; and all records related to accountings or calculations of the market value of the time such individuals contributed to the Guild.
4. All records related to the Guild, including, but not limited to: the Disabled Jockeys' Fund; the Disabled Jockeys' Endowment; Guild Board, Senate, or Executive Committee meetings and agendas; and the Guild's annual meetings and agendas. Such records include, but are not limited to, e-mails (including those contained in Dr. Wayne Gertmenian's Guild e-mail account), internal memoranda, and any other written correspondence.

## Instructions

1. In complying with this subpoena, you are required to produce all responsive records that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You are also required to produce records that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as records that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee on Energy and Commerce.
2. In the event that any entity, organization or individual denoted in this subpoena has been, or is also known by any other name than that herein denoted, the subpoena shall be read also to include them under that alternative identification.
3. Each record produced shall be produced in a form that renders the record capable of being copied.
4. Records produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when this subpoena was served.
5. All records, or groups of records, produced shall be identified by the paragraph number in the Attachment to which records, or groups of records, are responsive.
6. It shall not be a basis for refusal to produce records that any other person or entity also possesses non-identical or identical copies of the same document.
7. If any of the subpoenaed information is available in machine-readable form (such as punch cards, paper or magnetic tapes, drums, disks, or core storage), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
8. If compliance with the subpoena cannot be made in full, compliance shall be made to the extent possible, and your production shall be accompanied by a written explanation of why full compliance is not possible.
9. In the event that a record is not produced on the ground of privilege, provide the following information concerning each and every such record withheld from production: (a) privilege asserted; (b) type of document; (c) general subject matter; (d) date, author and addressee; and (e) relationship of author and addressee.
10. If any record responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the record (stating its date, author, subject and recipient(s)) and explain the circumstances by which the record ceased to be in your possession, custody, or control.

11. If a date or other descriptive detail set forth in this subpoena referring to a record is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all records which would be responsive as if the date or other descriptive detail were correct.
12. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.
13. All records shall be bates-stamped sequentially and produced sequentially.
14. Two sets of responsive records shall be produced and delivered to Room 2125, Rayburn House Office Building.

### **Definitions**

1. The term "record" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, spreadsheets, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might

otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The term “identify,” when used in a question about individuals, means provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
5. The terms “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.